

E-FILED - 6/22/11

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

EDWARD HARVEY,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. C-10-00019 RMW

Related Criminal Case: No. CR-05-00373
RMW

ORDER ON MOTIONS FOR LEAVE TO
APPEAL *IN FORMA PAUPERIS* AND
MOTION FOR EXTENSION OF TIME TO
APPLY FOR CERTIFICATE OF
APPEALABILITY

**[Re Docket Nos. 131 and 132 (Action No.
CR-05-00373 RMW)]**

Defendant Edward Harvey seeks to appeal the denial of his Section 2255 motion and requests

that he be given *in forma pauperis* status. The district court refused to issue a certificate of appealability. Harvey seeks an extension of time in which to request a certificate from the court of appeal. Since he has filed a notice of appeal, that is deemed a request for a certificate of appealability. Fed. R. App. Proc. 22(b)(2). His request to appeal *in forma pauperis* is denied without prejudice to a request to the court of appeal if he is granted a certificate of appealability.

DATED: 6/22/11



RONALD M. WHYTE
United States District Judge

1 **Copy of Order electronically mailed to:**

2 **Counsel for the Government:**

3 Shawna Yen

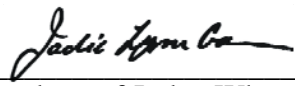
shawna.yen2@usdoj.gov

4
5 **Copy of Ordered mailed to:**

6 Edward Harvey
7 c/o F.C.I. Loretto
8 #39728-039
9 Federal Correction Institution
10 P.O. Box 1000
11 Loretto, PA 15940

12 Counsel are responsible for distributing copies of this document to co-counsel that have not
13 registered for e-filing under the court's CM/ECF program.

14
15 Dated: 6/22/11



Chambers of Judge Whyte